

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

BAD RIVER BAND OF THE LAKE
SUPERIOR TRIBE OF CHIPPEWA INDIANS
OF THE BAD RIVER RESERVATION

Plaintiff and Counter-Defendant,

v.

ENBRIDGE ENERGY COMPANY, INC., and
ENBRIDGE ENERGY, L.P.

*Defendants and Counter-
Claimants/Appellants.*

v.

NAOMI TILLISON,

Counter-Defendant.

Case No. 3:19-cv-00602

Judge William M. Conley
Magistrate Judge Stephen Crocker

DOCKETING STATEMENT

Appellants Enbridge Energy Company, Inc. and Enbridge Energy, L.P. (collectively, “Enbridge”) submit this Docketing Statement under Seventh Circuit Rules 3(c)(1) and 28(a):

1. The district court had subject-matter jurisdiction over the operative complaint and counterclaims. Specifically:

- a. The district court had subject-matter jurisdiction under 28 U.S.C. § 1362 because this action was brought by an Indian band with a governing body duly recognized by the Secretary of the Interior.
- b. The district court also had subject-matter jurisdiction under 28 U.S.C. § 1331, based on the existence of a federal question. Plaintiff brought claims, among others, for trespass to Indian lands and for public nuisance,

both of which are federal-law claims. *See Cnty. of Oneida v. Oneida Indian Nation*, 470 U.S. 226, 234 (1985); *Davilla v. Enable Midstream Partners L.P.*, 913 F.3d 959, 965 (10th Cir. 2019); *Michigan v. U.S. Army Corps of Eng'rs*, 758 F.3d 892 (7th Cir. 2014).

- c. The district court has subject-matter jurisdiction over Enbridge's counterclaims under 28 U.S.C. § 1331, based on the existence of a federal question because the rights being asserted in the counterclaims are memorialized in federal right-of-way easements.

2. Appellate jurisdiction exists under 28 U.S.C. § 1291. Specifically:

- a. This appeal is taken from the Judgment of United States District Court for the Western District of Wisconsin entered on June 29, 2023 (Dkt. 689 ("Amended Final Judgment in a Civil Case")), by the Honorable William M. Conley. That Judgment is a final judgment which adjudicates all of the claims and counterclaims with respect to all parties.
- b. No motions have been filed seeking review or alteration of that Judgment.
- c. A Notice of Appeal was filed with the district court on June 30, 2023.

Dated: June 30, 2023

Respectfully submitted,

/s/ Joseph S. Diedrich

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